



# SPEECH OF HON. JOHN A. BINGHAM, OF OHIO.

DELIVERED IN THE HOUSE OF REPRESENTATIVES, JANUARY 25, 1858.

Mr. Chairman: It is not my purpose to say anything of the neutrality act of 1818. Enough has been said in this debate, both on this side of the House and upon that, in vindication of that law. Enough has also been said of Gen. William Walker, and his raid upon Nicaragua. Enough, and more than enough, sir, has been said in denunciation of the gallant Paulding, for his fidelity to duty in arresting this culprit and refugee from justice, and sending him back to answer to the violated laws of his country. The President, sir, has pressed upon the consideration of this House a question of graver significance, of mightier import, a question which concerns the nation's honor and the nation's life—a question which to-day challenges the profound attention of the whole people of this country—a question upon which, if the official organ of the President is to be credited, this House will soon be required to pronounce its final decision. It is useless to waste the time of the House in demonstrating the position of the President upon this great question. The President and his party not only endorse the Lecompton Constitution, but by argument, by entreaty, and by threat, seek to induce Congress to endorse it, and thereby give to it the sanction and the force of law. That journal which is said to be in the favor of the Executive, and to reflect his opinions, has told us recently that the question of the adoption or rejection of this Lecompton Constitution will be a question between *law* and *faction*. I think, sir, it would have been more accurate to have said it is a question between Executive despotism and popular liberty.

I do not recognise the right of the Executive to dictate to this House the manner in which it shall discharge its official duty. It is his *revenue* to give to Congress information of the state of the Union, and to recommend to its consideration such measures of public policy as he may deem just and proper, but not to control its legislation.

I trust that no member of this body will be influenced in the discharge of his official duties there, and more especially in the discharge of that duty which he owes to himself and his

country in the settlement of this great question, by any consideration other than his sense of right and justice. For myself, I am free to say, that notwithstanding the President's solicitude in this behalf; notwithstanding the reported announcement by a distinguished Senator, that if Congress reject this slave Constitution, his State will secede from the Union; notwithstanding the clamor of the party of the President, here and elsewhere—I cannot and will not give my sanction to this Lecompton Constitution. This instrument does not emanate from the people of Kansas. It is not their will. Its provisions are in direct conflict with the Constitution of the United States, and with the principles of eternal justice.

It is conceded, it cannot be denied, that the reason why the Convention which framed this instrument refused to submit it to the people, for their approval or rejection, was, that the people would have voted it down. The proposition, the monstrous proposition, is now made by the President, and by gentlemen on this floor, to establish this instrument as the Constitution of Kansas by act of Congress, and against the will of the people of that Territory. Sir, it is the first time in the history of the Republic, that the attempt has been made to establish, by Federal authority, a State Constitution and Government against the will of the people, and without their consent. State Constitutions have been framed, and sent to Congress for ratification, without any formal submission thereof to the popular vote; but it was only in cases where the people, beyond all question, made the Constitution, by their legally-appointed delegates. This has not been done in Kansas. No delegates have been legally chosen there; nor have any delegates been chosen there at all by the great body of the people.

The delegates who framed this instrument were chosen by a body of men not equal in number to one-fourth the whole number of qualified voters in Kansas, and by virtue of an election law passed by usurpers. The Constitution thus framed is the joint product of local and Federal usurpation. Let him deny this

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who can, or who dare. But for Federal intervention, the Missouri invasion of Kansas would not have resulted in the election of the first Legislature in that Territory, and in the enactment by that body of a code of laws, so atrocious and unjust, that no man can or dare approve it. But for Federal intervention, the delegates to the Lecompton Convention would not have been chosen! But for Federal intervention, and the presence of Federal bayonets at Lecompton, those delegates would not have thus conspired against the liberties and insulted the majesty of the people. Now that this act of infamy has been done; now that the rights of the people have been cloven down; now that popular sovereignty in that Territory has been strangled, or, as a distinguished Administration Senator is reported to have said, *throttled*,\* by the hands of the Federal Executive—we are blandly told to affirm this great crime against popular rights for the sake of the Union, or, to use the President's very expressive words, "for the peace and quiet of the whole country." Sir, it is not the first time that acts of tyranny have been dignified with the title of peace measures. The invader has before now destroyed the vintage, enslaved the people, plundered and burned their habitations, and called the desolation, which followed in the train of his conquest, peace!

We were assured the other day, by the Court Journal, that "all is quiet in Kansas." Sir, if there be quiet in that distant Territory, it is not the quiet of contentment, it is not the calm repose of a people secure in their rights and happy in the enjoyment of them; it is the fitful lull which precedes the storm. Look to it, ye warders of the Union and the Constitution, that by your act the freemen of Kansas are not driven to that point at which forbearance ceases to be a virtue, nay, becomes a crime, and submission the basest cowardice and treason. I was pained, sir, to hear the gentleman from Arkansas [Mr. WARNER] say in this debate "that the people of Kansas had not the manliness to assert and defend their rights as free men, and to form their own Government," and yet he was ready "to vote now to admit the State of Kansas under the Lecompton Constitution." The first of these assertions, sir, whether so intended or not, is, in my judgment, a calumny upon that injured people, and the last is a concession that the Constitution which that gentleman is ready to vote for and sanction was not formed by the people of Kansas.

While I thank the gentleman for this honest concession that the Lecompton Constitution was not framed by the people, I beg leave to

\*It appeared in the public journals that on 7th July last, U. S. Senator A. G. Brown, of Mississippi, made a speech at Yazoo, Mississippi, in which he said:

"He had heard it from the President's own lips, that this theory of equatorial sovereignty was one of the most damnable heresies that was ever broached in this or in any other country, and that he (the President) would leave nothing undone to THROTTLE it."

say to him, and to all who think with him upon this floor, that, notwithstanding his assertion of their want of manliness, notwithstanding his questions their valor, Kansas is peopled with freemen who know their rights, and, knowing dare maintain them. They have the fortitude to endure; they have the courage to dare; they have learned wisdom in the lair of oppression; and to-day, by their defiant attitude bear witness that the fires of persecution through which they have walked are not wholly impotent for good, but may elevate and purify as well as consume. I say, as did the gentleman from Georgia, [Mr. GARTRELL] who addressed the House this morning, "I am no alarmist." I would scorn to invoke any man's fears; I would scorn to appeal to any man's prejudices; I would scorn to anticipate consequences, however imminent or perilous, by way of apology, or colorable apology, for infidelity to duty. I say it deliberately, as the conviction of my mind, that our oaths and our honor, and the peace and prosperity of our whole country alike demand that, as Representatives of the American people, we should, careless of all consequences, spurn this Lecompton Constitution from us. An honest man fears no act of his life so much as duty unperformed, or wrong purposely committed.

I repeat it: look to it, ye Representatives of the people, ye men who keep ward and watch over the Constitution and the Union that the freemen of Kansas are not, by your act, driven to the dread election of submission and dishonor, or resistance unto blood. I tell you, notwithstanding their alleged want of manliness, Kansas has hosts of citizens, good men and true, who will never stoop to be your abject slaves,

"While heaven has light or earth has graves!"

Sanction this Constitution, conceived in sin and brought forth in iniquity, and you can only maintain it by the Federal arm and the Federal bayonet; it can never receive the voluntary support of a free people. Sanction this Constitution, and with it sanction, as it sanctions that code of abominations which the invader of Kansas enacted, and you compel resistance. Resistance to such legislation would be duty not crime; patriotism, not treason. The resisters, or insurgents, or REBELS, if you please could point you, in vindication of their rebellion, to the fact that the history of Federal intervention in Kansas, ever since the day of its organization, is but a history of repeated injuries and usurpations.

In vindication of their rebellion, they could point you to the fact, that by your organic act you solemnly pledged the nation's faith that the people of Kansas "should be left perfectly free to FORM and REGULATE their domestic institutions in their own way, subject only to the Constitution of the United States." In vindication of their rebellion, they could point you to the

words of the great Declaration, that we are created equal, and endowed by our Creator with the rights of life and liberty; and that to secure these rights, "Governments are instituted amongst men, deriving their just powers FROM THE CONSENT OF THE GOVERNED." These words of the Declaration still live; like the words of Luther, they are half battles; they possess vitality; they were accredited in the day of our nation's peril as the law and the voice of God; to-day they announce the great right of self-government, upon which rests the beautiful fabric of our free institutions. Let the wronged men of Kansas, in protest against your proposed act of tyranny—your violation of their natural and guaranteed right of self-government—but appeal to the whole people of America in the living and immortal words of the Declaration, and their appeal will not be made in vain; it will stir the American heart like the blast of a trumpet.

Mr. CLEMENS. Will the gentleman from Ohio allow me to ask him a question?

Mr. BINGHAM. Yes, sir.

Mr. CLEMENS. You have cited the language of the Declaration of Independence, that all Governments derive their just powers from the consent of the governed. Will you be kind enough to tell me whether, according to the popular system of government, the people can act except under law and by law, or whether there is any such thing, so far as the sovereignty of the people is concerned, as acting except in consonance and conformity with the existing law?

Mr. BINGHAM. I have not claimed anything else than that; therefore the gentleman might as well have saved himself the trouble of presenting such a question for my consideration. But I would like to ask the gentleman from Virginia if he undertakes to say that this Kansas code, called a code of laws, and which his Lecompton Constitution expressly endorses, is a law? Will the gentleman be so good as to answer that?

Mr. CLEMENS. Who is to decide that question? Is it the people of Kansas?

Mr. BINGHAM. I will tell the gentleman who is to decide that question. We are to decide it, sir; and that gentleman, in common with all of us, is bound by his oath to decide it.

Mr. CLEMENS. Very well. I admit that. I come to another question.

Mr. BINGHAM. I only gave way to the gentleman to ask me one question, and not to occupy my time. He will please excuse me. When I get through, I will, if the Committee please, answer him till sundown.

Sir, the great right of self-government cannot now be set aside for the puerile conceits of demagogues, whether embodied in a President's message or an instrument framed by conspirators. The Lecompton Constitution directly contravenes this right of self-government, and proposes to legalize forever the violation of life,

and liberty, and property, and to establish a Government, armed with this fatal power, against the consent of the governed. What colorable apology can be made for this criminal conspiracy against the rights of mankind—for this attempt to repudiate the vital element of American institutions? Surely none can be found in the assertion of the President, that "the requirement to submit the whole Constitution to the people was not inserted in the Kansas-Nebraska act;" and "the Convention was not bound by its terms to submit any other portion of the instrument to an election, except that which relates to the domestic institution of Slavery." This is most remarkable language to come from the Chief Magistrate of the American Republic. The requirement to submit the whole Constitution to the people was not inserted in the organic act of Kansas; therefore, the convention of delegates, the people's servants, are not bound to submit the Constitution which they have framed to their masters, for their approval or disapproval! Is the servant greater than his lord—the creature greater than his creator? What are these delegates but the servants of the people? What powers or rights have they, not delegated by the people? The right to frame a State Constitution is inherent in the people, and is inalienable. It was well said, on a memorable occasion, by a distinguished Senator, then representing with pre-eminent ability the State of Missouri:

"Conventions [to form State Constitutions] were original acts of the people. They depended upon inherent and inalienable rights. The people of any State may, at any time, meet in Convention, without a law of their Legislature, and without any provision or against any provision of their Constitution, and may alter or abolish their whole frame of Government. The sovereign power to govern themselves was in the majority, and they could not be divested of it."—*Congressional Debates*, volume 12, p. 1030.

Mr. CLEMENS. Who said that?

Mr. BINGHAM. Mr. Benton.

Mr. GROW. President Buchanan held the same.

Mr. BINGHAM. That is true, and I shall notice that hereafter. That was Democratic doctrine in 1836, when Michigan applied to be admitted into the Union. Then, sir, the people might make a State Constitution without a Territorial law, or against a Territorial law, because the validity of the act depended, not upon any existing statute, but upon the inherent right of the people—their great right of self-government, of which they could not be divested. If the words of the message just cited mean anything, they do mean that the people have not the inherent right of self-government; that their right to reject a Constitution, framed by their delegates, depends upon a requirement in the organic act binding their delegates to submit the whole Constitution to the people, and that all their rights in the premises exist only by virtue of Federal grant. This surely repeals the very words of the organic act of Kansas, which declares that "the people of the Territory shall be left perfectly free to form and regulate their domestic

institutions in their own way." They shall be left to form all their domestic institutions—not merely the "institution of Slavery," as the President says, but all their local and State institutions. The organic act, by its words, simply affirms the right of self-government to bein the people; it does not profess to confer any such right. A man not yet out of the horn-book upon the law of construction, ought to know that this organic Kansas act does not profess to, and does not, in fact, grant the people the power to form their own domestic institutions. The spirit of the act is, that it leaves the people, as it found the people, perfectly free, by virtue of their own inherent right, to form their domestic institutions in their own way, subject only to the Constitution of the United States.

The gentleman from Mississippi, [Mr. LAMAR,] following the assumption of the President, insisted that the organic act of Kansas was an enabling act. With all due respect for that gentleman, and with as much respect for the President as he permits me to entertain for him, I beg leave to say that the assertion, that the organic act of Kansas is an enabling act, is an after-thought. The President's party was not of that mind during the Thirty-fourth Congress, when they clamored, from the Penobscot to the Pacific, for the passage by the House of their enabling Kansas act, which passed the Senate, known as the Toombs bill. No, sir; the organic act of Kansas is not, nor was it intended to be, an enabling act. Nor do I deem it necessary that there should be an enabling act. The Twenty-fourth Congress, by a most decisive vote, so decided; and amongst those of that Congress who so declared, both by speech and vote, the present Chief Magistrate, Mr. Buchanan, was conspicuous. Pending the question for the admission of Michigan upon a Constitution made by the people, without any act of Congress or Territorial act authorizing it, Mr. Buchanan spoke as follows:

"The precedent in the case of Tennessee has completely silenced all opposition in regard to the necessity of a previous act of Congress to enable the people of Michigan to form a State Constitution. It now seems to be conceded that our subsequent approbation is equivalent to our previous action. This can no longer be doubted. We have the unquestionable power of waiving any irregularities in the mode of framing the Constitution, had any such existed."—12 Congressional Debates, pp. 1041, 1042.

"He did hope that by this bill all objections would be removed; and that this State, so ready to rush into our arms, would not be repulsed, because of the absence of some formalities which perhaps were very proper, but certainly not indispensable."—*Ibid.*, 1015.

It is no answer to say that the question in the case of Michigan was not, as in the case of Kansas, whether the people had the right to pass upon the Constitution before Congress should approve it, and admit the State under it. The question in the case of Michigan included this, and more; the question there was, whether the people, of their own motion, and without the aid of a statute, National or Territorial, could make a Constitution, preparatory to admission into the Union, which Congress

could receive and approve; and it was solemnly, and by the votes of more than three-fourths of the Twenty-fourth Congress, decided they could—that the action of the people without an enabling act was an informality which Congress could waive, and in that case did waive. It is indisputably true that the people of the Territory may themselves waive the formal ratification of the Constitution, after their delegates shall have framed it; and in such case may well be held bound by the acts of their agents. But in this instance, the people of Kansas have not so waived their right. I know that it has been assumed in debate here by the gentleman from Mississippi, [Mr. LAMAR,] and that the message of the President proceeds upon the same assumption, that the Lecompton Convention was a legally-constituted body, and that the legal presumption is, that what they have done has been lawfully done, and is the will and act of the people of Kansas, whose agents they were.

Sir, nothing can be clearer than that the Lecompton Convention was not a legally-constituted body; that the Legislature which enacted the statute by which the members of said Convention were elected, was itself an illegal body, fraudulently chosen; and that their statute was not so executed, even if it had been valid, as to give legal effect to the election held under it.

But, admitting the assumption of the President and his especial advocates on this floor to be true, that the Lecompton Convention was a lawfully-constituted body, the legal presumption that their act is the act of the people of Kansas cannot stand before the admitted and known fact, that a very large majority of the people of Kansas wholly repudiate the Convention, and the Constitution pretended by it, and are to-day ready to take up arms in resistance of it, and of any Government which may be established under it.

There is, there can be, no presumption, either legal or natural, contrary to known and admitted facts. I say, therefore, admitting the President to be right in assuming the legality of the Lecompton Convention, his asserted legal presumption against known facts cannot be gravely entertained, and must be scouted by every well-informed man, as the veriest quibble, in aid of the most desperate cause. Despite this quibble and the force of this legal presumption, it must be conceded, it cannot be gainsayed, that the delegates who formed the Lecompton Constitution were not chosen by the majority, but, on the contrary, by a very small minority of the people of Kansas; and that it is as well known as the fact that this Constitution was made by the delegates thus chosen, that it has been, and is now, emphatically repudiated and condemned by an overwhelming majority of the people of Kansas. And yet, in the face of this fact, patent to all men, the President, and his party on this floor, demand, that Congress shall fasten this repu-

diated instrument upon the people of Kansas as their legitimate act, and thereby coerce them to acquiesce in it and accept it as the expression of their will. You call this popular sovereignty; I call it Federal usurpation and Federal despotism; and, before I give this proposed act of Federal tyranny my voluntary sanction, either by word or vote, may my right hand forget its cunning, and my tongue cleave to the roof of my mouth.

But, sir, it is asserted by the President that "the question has been fairly and explicitly referred (by the schedule of this instrument) to the people, whether they will have a Constitution with or without Slavery." With all due deference, I submit that the very contrary of this is the truth, and so clearly expressed on the face of the Constitution as to silence all controversy. The seventh section of the schedule contains the provision for the submission of the question of Slavery, and the only provision; it is as follows:

"[7.] SEC. 7. That this Constitution shall be submitted to the Congress of the United States at its next ensuing session, and as soon as official information has been received that it is approved by the same, by the admission of the State of Kansas as one of the sovereign States of the United States, the President of this Convention shall issue his proclamation to convene the State Legislature at the seat of Government within thirty-one days after publication. Should any vacancy occur, by death, resignation, or otherwise, in the Legislature or other office, he shall order an election to fill such vacancy: *Provided, however*, in case of refusal, absence, or disability of the President of this Convention to discharge the duties herein imposed on him, the President *pro tempore* of this Convention shall perform said duties; and in case of absence, refusal, or disability of the President *pro tempore*, a committee consisting of seven, or a majority of them, shall discharge the duties required of the President of this Convention. [11.] Before this Constitution shall be sent to Congress for admission into the Union as a State, it shall be submitted to all the white male inhabitants of this Territory, for approval or disapproval, as follows: The President of this Convention shall, by proclamation, declare that on the 21st day of December, 1857, at the different election precincts now established by law, or which may be established as herein provided, in the Territory of Kansas, an election shall be held, over which shall preside three judges, or a majority of them, to be appointed as follows: The President of this Convention shall appoint three commissioners in each county in the Territory, whose duty it shall be to appoint three judges of election in the several precincts of their respective counties, and to establish precincts for voting, and to cause polls to be opened at such places as they may deem proper in their respective counties; at which election the Constitution framed by this Convention shall be submitted to all the white male inhabitants of the Territory of Kansas in the said Territory upon that day, and over the age of twenty-one years, for ratification or rejection, in the following manner and form: The voting shall be by ballot. The judges of said election shall cause to be kept two poll-books by two clerks by them appointed. The ballots cast at said election shall be endorsed, 'Constitution with Slavery,' or 'Constitution with no Slavery.' One of said poll-books shall be returned within eight days to the President of this Convention, and the other shall be retained by the judges of election, and kept open for inspection. The President, with two or more members of this Convention, shall examine said poll-books, and if it shall appear upon said examination that a majority of the legal votes cast at said election be in favor of the 'Constitution with Slavery,' he shall immediately have the same transmitted to the Congress of the United States, as hereinbefore provided. But if, upon such examination of said poll-books, it shall appear that a majority of the legal votes cast at said election be in favor of the 'Constitution with no Slavery,' then the article providing for Slavery shall be stricken from this Constitution by the President of this Convention, and Slavery shall no longer exist in the State of Kansas, [except that the right of property

in slaves now in this Territory shall in no manner be interfered with] and shall have transmitted the Constitution so ratified to the Congress of the United States, as hereinbefore provided. In case of the failure of the President of this Convention to perform the duties imposed upon him in the foregoing section, by reason of death, resignation, or otherwise, the same duties shall devolve upon the President *pro tempore*."

Can it be said that this is a fair submission to the people, whether they will have a Constitution with or without Slavery? I do no more than call attention to the extraordinary and *unfair* provision that the President of the Leecompton Convention, Mr. Calhoun, is to appoint three commissioners in each county; which three commissioners shall appoint three judges of election in the several precincts of their respective counties; and shall also establish precincts for voting, and cause polls to be opened at *such places* as they may deem proper in their respective counties; the result of the election to be determined by Mr. Calhoun and two other members of the Convention. A marvelously fair provision for an election, to provide that one of fifty usurpers shall, by his agents, open the polls and conduct the election in such manner and at *such places* as he shall deem proper! and, finally, with two of his co-conspirators, determine the result. A complete device this, for the successful reenactment of election frauds, without a parallel, save in the recent elections in Kansas, held under the same bogus laws which sanctioned this Convention. Still more clearly does it appear that the question is not fairly referred to the people, whether they will have a Constitution with or without Slavery, by the last clause of the seventh section, which is, that although the majority shall vote "Constitution with no Slavery," "the right of property in slaves *new* in the Territory shall in no manner be interfered with." And to make sure of this, the 9th section of the schedule provides:

"SEC. 9. Any person offering to vote at the aforesaid election upon said Constitution shall, if challenged, take an oath to support the Constitution of the United States, and to support this Constitution, if adopted, under the penalties of perjury under the Territorial laws."

And to the same effect is the fourteenth section, which provides:

"SEC. 14. That after the year one thousand eight hundred and sixty-four, whenever the Legislature shall think it necessary to amend, alter, and change this Constitution, they shall recommend to the electors at the next general election, two-thirds of the members of each House concurring, to vote for or against calling a Convention; and if it appears that a majority of all the citizens of the State have voted for a Convention, the Legislature shall, at its next regular session, call a Convention, to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors, that chose the Representatives. Said delegates so elected shall meet within three months after said election, for the purpose of revising, amending, or changing the Constitution; but no alteration shall be made to affect the rights of property in the ownership of slaves."

A fair submission of the question, whether they will have a Constitution with or without Slavery! It is no submission of the Constitution at all. In no event are the people, or any one of them, permitted to vote against the

Constitution; they can only vote for the Constitution with Slavery. 'This is plain; for it is provided, if the people should all vote for the Constitution with no Slavery, yet the right of property in slaves now in the Territory shall in no manner be interfered with; and the only effect, therefore, of such a vote, would be to cut off that provision of the instrument which provides for the further importation of slaves into the State. The only question, then, that is submitted to the people is, whether they will prohibit the increase of their slave population by future importations; and before they are permitted to exercise even this privilege, they must, if challenged, submit to the humiliating requirement of taking an oath—a test oath of fealty to their masters, and to their masters' work, to wit: that they will support this Constitution, if adopted. As I have said, its adoption is made sure, for no one can vote against it; all must vote for it, or not vote at all. And as if to add to the humiliation, and sharpen the sting of the indignities thus heaped upon this invaded province of Kansas, the President, with "smooth dissimulation," speaking of the election provided for in the seventh section of the schedule, to be held 21st of last December, says:

"At this election, every citizen will have an opportunity of expressing his opinion by his vote, 'whether Kansas shall be received into the Union with or without Slavery.' The election will be held under legitimate authority; and if any portion of the inhabitants shall refuse to vote, a fair opportunity to do so having been presented, this will be their own voluntary act, and they alone will be responsible for the consequences."

Is it mere partisan heat and partisan zeal, or is it the reckless arrogance of power, that prompts the President thus to speak; thus to falsify the record; thus to insult an outraged people? A legitimate election and a fair opportunity to vote! A dictator determines and chooses the places and the officers of the election, and, with two of his co-conspirators, determines the result of the election; the people can vote only for the Constitution framed and presented to them by these conspirators. They must, if required, swear, upon the pains and penalties of perjury, to support that Constitution when adopted, and by its terms are restricted, and shall in no event be permitted, by alteration or amendment thereof, to "affect the rights of property in the ownership of slaves." With the shadow of this great calamity upon them, shedding its dubious twilight over all their habitations, threatening the inauguration in their midst of that anarchy which is fearful in energy and atheistical in creed, frightening their pale-faced villages with war, and profaning their temples and shrines with the blood of murder, they are mocked with the infamous and gratuitous counsel of submission. Submit, submit, says the President, and vote, now that you have a fair opportunity, for this Constitution, framed by usurpers and tyrants, or be yourselves "alone responsible for the consequences"

Responsible, sir, for what consequences? For the consequences of refusing to submit to Federal dictation and Federal usurpation—responsible for the consequences of provoking, by this act of disobedience, that vengeance which slumbers in the arm of the Federal Executive. Sir, the threat is as weak as it is wicked. The millions of the populous North would revolt against the attempt of the Federal Government to arrogate to itself the power expressly reserved to the people—the power to form their own local and State institutions. The President himself confesses that the people of Kansas are allowed only to vote for this Constitution; and that, although they should all vote for it with no Slavery, they must, nevertheless, have it *with* Slavery, and must *support* it with Slavery; and to excuse this atrocious invasion of the people's rights, the President says:

"Should the Constitution without Slavery be adopted by the votes of the majority, the rights of property in slaves now in the Territory are reserved. The number of these is very small; but if it were greater, the provision would be equally just and reasonable. These slaves were brought into the Territory under the Constitution of the United States, and are now the property of their masters. This point has at length been finally decided by the highest judicial tribunal of the country; and this upon the plain principle, that when a confederacy of sovereign States acquire a new Territory at their joint expense, both equality and justice demand that the citizens of one and all of them shall have the right to take into it whatsoever is recognised as property by the common Constitution."

A most humiliating confession—should the people adopt the Constitution without Slavery, the rights of property in slaves now in the Territory are reserved, and therefore they have a Constitution with Slavery; and this, we are told by the President, "is just and reasonable," because "these slaves were brought into the Territory under the Constitution of the United States," and "are now the property of their masters." It only remains for the President to say that all the people of Kansas are now the property of their masters. In another communication, the President has told the country "that Slavery existed in Kansas under the Constitution of the United States;" and now he says "this point has been decided by the highest judicial tribunal;" and yet he says, as if he were demented, "the question has been fairly and expressly referred to the people, whether they will have a Constitution with or without Slavery, and every citizen may express, by his vote, whether Kansas shall be received into the Union with or without Slavery." Surely this cannot be, if Slavery is in Kansas under and by virtue of the Constitution of the United States. Why talk of submitting it to the people, when Slavery is there, not by force of their will, but by force of the Constitution of the United States? Why talk of the people of a Territory excluding that which the Constitution of the United States sanctions and upholds? Can the people of Kansas repeal, by vote or otherwise, the Constitution of the United States? Is it not written on the face of that instrument, "this Consti-



ution shall be the supreme law of the land, the Constitution and laws of any State to the contrary notwithstanding?" If, therefore, men *own property* under the Constitution of the United States, and by virtue thereof held as *property* in the Territory of Kansas, it is in vain, and a mockery, to talk of the right of the people of that Territory to exclude Slavery therefrom, or to establish a State Constitution without Slavery; and hence the conclusion of the President upon this hypothesis is logically and severely true—that although the majority of the people of Kansas adopt a Constitution without Slavery, Slavery nevertheless continues in their Territory, and under their Constitution so adopted. And to this complexion has it come at last, that in Kansas it is just and reasonable that the people thereof shall be permitted to vote only for the Constitution framed and submitted to them by usurpers, and only for a Constitution with Slavery. And this is popular sovereignty under Democratic rule! I shall not join in this libel upon the Constitution of my country, that Slavery exists in Kansas or anywhere else under or by virtue of that sacred instrument. I know that one of its immortal authors, sometimes called the Father of the Constitution, said "that it would be wrong to admit in the Constitution that there could be property in men." I know that he whose dust sleeps in its quiet tomb on the banks of the beautiful Potomac, he who is sometimes called the Father of his Country, has said that the Constitution "is perfectly free in its principles." I know that it declares upon its face that no person, whether white or black, shall be deprived of life, liberty, or property, without due process of law; and that it was ordained by the people to establish justice! I know that, by a law made under and pursuant to that Constitution, the traffic in men upon the high seas, under our flag, is a crime, punishable with death. Can it be that this traffic, which, upon the seas, by the law of the Constitution, is piracy, worthy of death, and punishable with death, is upon land a right, a sacred right, sanctioned by the Constitution, and not to be restricted or interfered with by the fundamental law of any State in this Union? If this be so, tyrants may call the roll of their slaves on Bunker Hill, and upon the very grave which holds the hallowed dust of the first great martyr in the cause of our own American Liberty.

Such, sir, is not the Constitution of the United States. That instrument guarantees Liberty, not Slavery; justice, not injustice; a Republican Government, resting upon the consent and upholding the inborn rights of the governed, not a despotism or an oligarchy, fastened upon the people by brute force, and upheld by brute force. The Constitution of the United States limits the sovereignty of the people in the formation of State Constitutions to this extent, that their Constitution must be republican, that it must not impair, but sustain and secure,

the universal and imprescriptible rights of life, liberty, and property. When the people of the Territories frame such Constitutions, Congress may admit them into the Union. That Congress is the final arbiter on the question of the formation of new States within our Territories is clear; for unless the Constitution framed by the people of a Territory be affirmed and approved by Congress, no State is organized, and the Constitution so framed does not become law. Your Kansas-Nebraska act recognises this principle to the fullest extent. It declares that the people of the Territory *are left* "perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

Who is to judge whether the institutions formed by the people of a Territory conform to the Constitution of the United States? Manifestly Congress, inasmuch as Congress alone can admit or reject the proposed State. It is the right of the people of a Territory to form a republican Constitution, which in its provisions does not contravene natural justice or the supreme law of the land; and when they, having sufficient numbers to sustain a State Government, do frame such a Constitution, it is the duty of Congress to admit them under it into the Union. No higher or more important duty than the admission of new States into the Union is imposed upon the Congress of the United States. If, therefore, the Lecompton Constitution had emanated from the people of Kansas; if it had been the expression of their will; if it had been republican, and not inconsistent with or repugnant to the Constitution of the United States, it would have been clearly our duty to have approved it, and to have given to it the authority of law, by admitting Kansas under it into the Union as a State.

I have already said, and it has been conceded on this floor, that this Constitution does not emanate from the people of Kansas, and does not express their will. For that reason, it is our duty to reject it; but if the whole people of Kansas had solemnly ratified and adopted this instrument, at either of their recent elections, I affirm that it would still be our duty to reject it. It would be our duty to reject it, because it contravenes the plainest principles of the Constitution of the United States; because it legalizes the wanton and continued violation of the rights of life and liberty and property; because it is a Constitution not fit to be made, and such as no people or State can of right make; because it is a Constitution which could only originate in a base conspiracy against the liberties of the country and the sacred rights of human nature. Consider this! What do we sanction by affirming this Lecompton Constitution? First, the wild and glibly fantasy of property in man; the coarse and brutal atrocity of merchandise in human souls. The first section of the seventh article contains these words: "The right of property \* \* \* to

a slave and its increase is \* \* \* before and higher than any constitutional sanction."

The American Congress to sanction this! The American Congress to declare that the right to hold *men, women, and children*, as property, and to sell them as chattels, is inviolable, and before and higher than any constitutional sanction!

I submit, if by any fiction you can convert a child into property, it is a fact before and higher than any human law or Constitution, that the property of the child is in its parents, to the exclusion of the stranger. By enacting this Lecompton Constitution, you would reverse this great fact of nature, or rather violate this right of nature, and declare it lawful to steal from the parent his child. If you will by law degrade one portion of the human family into chattels, for God's sake do not by law reduce another portion to the still lower level of thieves. After you shall have enacted your statute, will not the law of the stone table still stand, "Thou shalt not steal?" After you shall have enacted your statute, declaring it lawful to send little children to the auction block for sale, will they not still be as sacred, whether an African or an Indian, a European or an American sun first burned upon them, as they were in that day when the Nazarene, whose intense holiness shed majesty over the manger and the straw, said: "Suffer little children, and forbid them not to come unto me, for of such is the kingdom of heaven?"

In keeping, sir, with the atrocious provision of this Lecompton Constitution, declaring property in man, is the further provision, which declares "that all FREEMEN, *when they form a social compact*, are equal in rights." By adopting this, we are asked to say, that the self-evident truth of the Declaration, that "ALL MEN ARE CREATED EQUAL," is a self-evident lie; a glittering generality; a rhetorical flourish, unconstitutional and undemocratic; that the self-evident truth now in these latter days is, that men are not created, but, like Topsy, they grow; and THEY are equal in rights only "when they are free, and form a social compact." Allow me to ask the advocates and supporters of this Lecompton bill of rights—this new declaration of self-evident truths—what rights men have before they are free, and before they form a social compact? Are they then, by endowment of their Creator, possessed of the rights of life and liberty? Or, outside of your social compact, is there an inferior class of human beings, "who," as the majority of the Supreme Court said in the Dred Scott decision, "have NO RIGHTS or privileges but such as those who hold the power and Govern-

ment may choose to grant them?" This the precise principle, the bald and atheistic avowal, of this Lecompton Constitution; we, by affirming it, are only to become avowed upholders of the stupendous lie; one class of men have no rights which are bound to respect; and hence, the partial and exclusive provision of this instrument,

"That no freeman shall be taken, or imprisoned or diseized of his freehold, liberties, or privileges, outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land."

"NO FREEMAN:" the words of necessity report that any person not a freeman, any slave, any human chattel, may be taken and imprisoned, diseized of his freehold, liberties, and privileges, outlawed, exiled, and murdered without the judgment of his peers, and without the protection of law. That this instrument may want in no feature of horrid cruelty, further therein provided, that "*free negroes shall not be permitted to live in this State under any circumstances.*" Sir, they are mere "fictionary theorists" who suppose that this was not made for Cæsar, but for man—that belongs only to the common Father of all, and is for the use and sustenance of all his children. By our of affirmance of this instrument are to say to certain human beings in the Territory of Kansas, though you were born in the Territory, and born of free parents, though you are human beings, and no chattels, yet you are not free to live here upon your native hearth; you must be diseized of your freehold, liberties, and privileges, without the judgment of your peers and without the protection of law. Though born here, you shall not, under any circumstances, be permitted to live here. You shall suffer exile or death—you cannot and shall not live here. That sky which you first saw, to which weary men look up for hope and consolation—that beautiful sky which bends a shadow over your humble home like the arms of beneficence clasping in its embrace the evil and the good, the just and the unjust—that sky was not made for you; you shall not live under it. This is this goodly land, with its fertile fields, and its waters, and rustic homes, where you first learned to hush the hallowed name of father, your brother, and where sleeps in humble hope the sacred dust of your poor dead mother—this was not made for you; you shall not, under any circumstances, be permitted to live here; it; go hence, never more to return: that is the law. Representatives! will you give to proposed atrocity your official sanction? And upon your oaths, to your conscience, to your country, and to your God!

[Here the hammer fell.]

WASHINGTON, D. C.

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